

SENATE BILL NO. 85

INTRODUCED BY J. TESTER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO THE SELECTION OF TRIAL JURIES; PROVIDING THAT TRIAL JURORS MUST BE SELECTED FROM A LIST OF LICENSED DRIVERS AND HOLDERS OF MONTANA IDENTIFICATION CARDS; ELIMINATING THE REQUIREMENT THAT JURORS MUST BE REGISTERED ELECTORS; ELIMINATING THE REQUIREMENT THAT A JURY LIST BE PREPARED BY THE CHAIRMAN OF THE COUNTY COMMISSIONERS AND THE COUNTY CLERK AND RECORDER; AMENDING SECTIONS 2-6-109, 3-15-301, 3-15-303, 3-15-403, 3-15-404, 3-15-405, AND 46-17-202, MCA; ~~AND~~ REPEALING SECTIONS 3-15-401 AND 3-15-402, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Providing lists of licensed drivers and holders of Montana identification cards to clerks of district court -- jury selection purposes. (1) On the second Monday of June of each year, the department shall submit to the clerk of the district court of each county a list, prepared from the department's databases of licensed drivers and holders of Montana identification cards, showing the name, address, and date of birth of all licensed drivers and holders of Montana identification cards authorized by 61-12-501 who are 18 years of age or older and whose address is in that county. The list must be compiled on a county-by-county basis and be further divided by the city of residence of the persons named on the list to enable the drawing of lists for city courts that are comprised of only those residents living within a city's jurisdiction. The list must be provided for the exclusive purpose of making a list of persons to serve as trial jurors for the ensuing year.

(2) The list submitted by the department under subsection (1) must be certified by the attorney general or the attorney general's designee.

(3) The department may not provide the social security or driver's license numbers of persons on the list for any purpose.

Section 2. Section 2-6-109, MCA, is amended to read:

1 **"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.** (1) Except as
2 provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and
3 local government:

4 (a) an agency may not distribute or sell for use as a mailing list any list of persons without first
5 securing the permission of those on the list; and

6 (b) a list of persons prepared by the agency may not be used as a mailing list except by the
7 agency or another agency without first securing the permission of those on the list.

8 (2) As used in this section, "agency" means any board, bureau, commission, department, division,
9 authority, or officer of the state or a local government.

10 (3) [Except as provided in 30-9-403, this] This section does not prevent an individual from
11 compiling a mailing list by examination of original documents or applications that are otherwise open to
12 public inspection.

13 (4) This section does not apply to the lists of registered electors and the new voter lists provided
14 for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or
15 to lists of persons holding driver's licenses or Montana identification cards provided for under 61-5-126
16 or [section 1].

17 (5) This section does not prevent an agency from providing a list to persons providing prelicensing
18 or continuing educational courses subject to state law or subject to Title 33, chapter 17.

19 (6) This section does not apply to the right of access to public records dealing with motor vehicle
20 registration either by Montana law enforcement agencies or, by purchase or otherwise, ~~of public records~~
21 ~~dealing with motor vehicle registration.~~

22 (7) This section does not apply to a corporate information list developed by the secretary of state
23 containing the name, address, registered agent, officers, and directors of business, nonprofit, religious,
24 professional, and close corporations authorized to do business in this state.

25 (8) This section does not apply to the use by the public employees' retirement board of a mailing
26 list of board-administered retirement system participants to send materials on behalf of a retiree
27 organization formed for board-administered retirement system participants and with tax-exempt status
28 under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the
29 board, provided that the mailing list is not released to the organization.

30 (9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor. (Bracketed

1 language deleted July 1, 2001.)"

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3 **Section 3.** Section 3-15-301, MCA, is amended to read:

4 **"3-15-301. Who competent.** ~~A~~ Except as provided in 3-15-303, a person is competent to act as
5 a juror if he the person is: a registered elector whose name appears on the most recent list of all registered
6 electors, as prepared by the county registrar

7 (1) 18 years of age or older;

8 (2) a resident for at least 30 days of the state of Montana and of the city, town, or county in
9 which the person is called for jury duty; and

10 (3) a citizen of the United States."

11

12 **Section 4.** Section 3-15-303, MCA, is amended to read:

13 **"3-15-303. Who not competent.** A person is not competent to act as juror if the person:

14 (1) who does not possess the qualifications prescribed by 3-15-301; or

15 (2) who has been convicted of malfeasance in office or any a felony or other high crime and the
16 person's full rights have not been restored by termination of state supervision; or

17 (3) has been adjudicated to be of unsound mind, unless restored to capacity as provided by law."

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19 **Section 5.** Section 3-15-403, MCA, is amended to read:

20 **"3-15-403. Lists delivered to clerk Jury list -- filing -- public inspection.** (1) ~~A list of the names of~~
21 ~~the persons selected, showing the place of residence and other proper particulars regarding each of them,~~
22 ~~so far as those particulars can be conveniently ascertained, must be made out and signed by the officers~~
23 ~~or a majority of them. Within 15 days after the meeting, the~~ The jury list certified to the clerk of the
24 district court under [section 1] must be delivered by those officers to the clerk of the district court and
25 filed by the clerk in the clerk's office no later than 5 working days after the receipt of the list.

26 (2) A copy of the latest jury list lists filed under subsection (1) and compiled under 3-15-405(4)
27 3-15-404 AND 46-17-202 and a description of the approved computerized random selection process, if one
28 is used, must be kept in the office of the clerk of court and be made available for public inspection during
29 normal business hours.

30 ~~(3) If the clerk of court is satisfied that a person whose name is drawn is deceased or mentally~~

1 ~~incompetent or has permanently moved from the county, the name of the person must be omitted from~~
2 ~~the jury list. The reason for the omission must be entered in the minutes of the court."~~

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4 **Section 6.** Section 3-15-404, MCA, is amended to read:

5 **"3-15-404. Duty of jury commissioner -- jury box or computer database.** (1) The clerk of court
6 is the jury commissioner and may appoint a deputy pursuant to 7-4-2401.

7 (2) A county jury commissioner may by order establish the use of either a jury box, as provided
8 in subsection (3), or a computer database, as provided in subsection (4), as the means for selecting jurors
9 in the county.

10 (3) If a county uses a jury box for selection of jurors, the jury commissioner shall prepare and keep
11 a jury box and contents as prescribed in this subsection. The number of each juror must be written, typed,
12 or stamped on a slip of paper or other suitable material, identical in all respects to the slips used for the
13 other numbers. The slips must be placed in a box of ample size to permit them to be thoroughly mixed.
14 The box must be plainly marked "jury box". The slips may be used as often as necessary, except that none
15 may be used that is in any manner defaced or disfigured or so marked that it may be recognized or
16 distinguished from the others in the jury box except by the number on the slip. The box may contain only
17 one slip for each number corresponding to the number before the name of each juror on the jury list
18 prepared under the provisions of 3-15-405(4) [SECTION 1].

19 (4) If a county uses a computer database for selection of jurors, the jury commissioner shall cause
20 the list of jurors prepared under the provisions of ~~3-15-402~~ 3-15-405(4) [SECTION 1] to be entered into a
21 computerized database.

22 (5) A person's name may not appear on a jury list for more than one court during a 1-year term.

23 (6) THE CLERK OF COURT SHALL PREPARE A JURY LIST FOR THE DISTRICT COURT OR EACH DIVISION OF THE
24 DISTRICT COURT AND EACH JUSTICE'S, MUNICIPAL, AND CITY COURT WITHIN THE COUNTY."

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26 **Section 7.** Section 3-15-405, MCA, is amended to read:

27 **"3-15-405. Notice to jurors -- omissions from list -- final list.** (1) The clerk of court shall serve
28 notice by mail on the persons ~~drawn as jurors whose names appear on the jury list filed COMPILED under~~
29 3-15-403(1) 3-15-404(6) DRAWN AS JURORS and require the persons to respond by mail as to their
30 qualifications to serve as jurors. The clerk of court may attach to the notice a jury questionnaire and a form

1 for an affidavit claiming an excuse from service provided for in 3-15-313. If a person fails to respond to
2 the notice, the clerk shall certify the failure to the sheriff, who shall serve the notice personally on the
3 person and make reasonable efforts to require the person to respond to the notice.

4 (2) The name of a person on the list filed under 3-15-403(1) must be omitted from the list by the
5 clerk of the district court if the clerk of the district court is satisfied that the person:

6 (a) is deceased;

7 (b) does not possess the qualifications prescribed by 3-15-301;

8 (c) is mentally incompetent;

9 (d) has been convicted of a felony and has not had full rights restored;

10 (e) has been permanently excluded from jury service under 3-15-313 or is otherwise excused from
11 jury service under 3-15-313; or

12 (f) has permanently moved from the county.

13 (3) The reason for the omission of a person from the jury list under subsection (1) must be entered
14 in the minutes of the court.

15 (4) Following the omissions required by subsection (2), the clerk of the district court shall compile
16 a final list of all persons qualified to serve as trial jurors to be used when it is ordered that a trial jury be
17 drawn and summoned."

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19 **Section 8.** Section 46-17-202, MCA, is amended to read:

20 **"46-17-202. Formation of trial jury for justices', municipal, and city courts.** (1) At the time of
21 preparing the district court jury list ~~under 3-15-405(4)~~ 3-15-404(6), ~~the county commissioners and clerk~~
22 ~~and recorder~~ clerk of the district court shall prepare a jury list for each justice's, municipal, and city court
23 within the county. Each list must consist of residents of the appropriate county, city, or town. The lists
24 must be selected in any reasonable manner that ensures fairness, and each list must include a number of
25 names sufficient to meet the annual jury requirements of the respective court. Additional lists may be
26 prepared if required. The lists must be ~~filed~~ kept on file in the office of the clerk of the district court as
27 provided in 3-15-403. The appropriate list must be posted in a public place in each county, city, or town,
28 and the list must comprise the trial jury list for the ensuing year for the county, city, or town.

29 (2) Trial jurors must be summoned from the jury list by notifying each one orally that the person
30 is summoned and of the time and place at which attendance is required."

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2 NEW SECTION. Section 9. Repealer. Sections 3-15-401 and 3-15-402, MCA, are repealed.

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4 NEW SECTION. Section 10. Codification instruction. [Section 1] is intended to be codified as an
5 integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply to
6 [section 1].

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8 NEW SECTION. SECTION 11. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE OCTOBER 1, 2002.

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10 NEW SECTION. SECTION 12. APPLICABILITY. [THIS ACT] APPLIES TO LISTS SUBMITTED BY THE DEPARTMENT
11 OF JUSTICE TO THE CLERK OF THE DISTRICT COURT ON AND AFTER THE SECOND MONDAY OF JUNE 2003.

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